

JOHN K. WELCH

December 8, 2010

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A. No. I would never say I don't want to.

Q. Did you ever volunteer to drive your personal car to help out with packages?

A. No.

Q. Other than driving your personal vehicle, the actual delivery of the package, was any of that outside of your restrictions?

A. Yes.

Q. Which part?

A. When they were exceeding the weight limitations.

Q. Did you ever object to Mr. Martini, Mr. Charles, Mr. Krauss, Mr. Mazzola or Mr. Cergorolli that these packages that they were asking you to deliver were too heavy and outside of your restrictions?

A. No.

Q. Did you ever complain to anyone in human resources or occupational health that you were being required to deliver packages that were outside of your medical restrictions?

A. I believe I have.



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are you participating in when you're not telling your managers that these assignments are outside of your medical restrictions?

A. What part am I not --

Q. Are you participating? Do you consider yourself to be participating in the interactive process that you've described in the ADA?

A. Well, from 2008 forward I informed my attorney, who informs UPS.

Q. But when your manager assigns you a task, do you feel that it's necessary to maybe let him know that certain tasks are beyond your medical restrictions?

A. Yes. Should be my responsibility.

Q. Now, after you had started talking about driving your personal vehicle, you then started talking about an on-car supervisor position at the Garden City center in July, August, September.

A. Yes.

Q. Is this another example where you feel you were working outside of your medical restrictions?



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1  
2 A. Well, I continued to do that on a  
3 regular basis.

4 Q. What were you doing in that  
5 position?

6 A. Supervisors used to supervise. Now  
7 they chase problems. And our problems are  
8 related to errors that occur on the preload,  
9 packages that go on the wrong vehicle,  
10 packages in the wrong town. And we don't want  
11 to have service failures, so we dispatch  
12 supervisors to move them between drivers and  
13 from the building when they are not dispatched  
14 to drivers.

15 So while I can serve in other  
16 capacities, do safety or something else that  
17 the company could choose within the  
18 restrictions, they keep, like I said,  
19 rerouting me back to where I'm at the  
20 beginning of the problem, instead of moving  
21 forward towards everyone understanding.

22 Q. What about that job, the on-car  
23 supervisor in Garden City, was beyond your  
24 medical restrictions?

25 A. Moving packages.

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2 Q. Were all of the packages over your  
3 medical restriction limit?

4 A. No. Some days there were none.

5 Q. So then some days the job was not  
6 outside your medical restrictions?

7 A. Right.

8 Q. On the days when it was outside your  
9 medical restrictions or a package was beyond  
10 your medically allowable weight limit, did you  
11 notify a coworker or a supervisor?

12 A. No.

13 Q. Any other comment or conduct by any  
14 employees or supervisors or managers that you  
15 felt have been discriminatory on the basis of  
16 your disability?

17 A. I was told to do road tests in  
18 the -- with new employees.

19 Q. When was that?

20 A. 2007.

21 Q. Why did you feel that was  
22 discriminatory, based upon your disability?

23 A. I didn't think it was  
24 discriminatory, because I was never in the  
25 vehicle. But I was chastised by a human



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Q. What year was that?

A. 2007.

Q. Any other personal issues that may have caused you stress or affected your work performance?

A. No.

Q. I'm going to show you what's been marked as Exhibit G for identification. You can just take a look at that.

A. OK.

Q. Do you recognize that document?

A. Yes.

Q. Is that a document that you prepared?

A. Yes.

Q. The Bob that is addressed at the top, is that Bob Rizzo?

A. Yes.

Q. Do you have any recollection, do you see any marking on the document that indicates when this was sent to Mr. Rizzo?

A. It was probably in 2007.

Q. Was Mr. Rizzo your manager at the time?



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A. Yes.

Q. Do you recall why you wrote this note to Mr. Rizzo?

A. Well, it was a daunting task, because that job had been left vacant for three months.

Q. What job?

A. CHSP. And I earlier said you can't take a week off without your head spinning on that job.

Bob would like to paint the picture that he sent people in to help me. He sent no one. Bob would like to paint the picture that I had not communicated time off from him when necessary, and I had. Even to disrespect his boss upon leaving his office and say he has ADD.

Q. So why did you write this letter to Bob?

A. To inform him that the issues I have in my life are only being compounded by the issues presented by my job.

Q. Just looking at some of the issues going on in your life, I think the first



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2 bullet refers to what you mentioned earlier,  
3 troubles with your wife?

4 A. Yes.

5 Q. You mentioned she had you arrested.  
6 On what grounds did she have you  
7 arrested?

8 A. I went to the hospital, and she  
9 called the hospital and said he's having  
10 issues, psychological issues that need to be  
11 addressed, from her perception. But the  
12 issues I was receiving are the issues greatly  
13 in part to the pressure receiving at work, the  
14 ADA requests not being accommodated. It only  
15 made matters worse. It felt like my whole  
16 world was pressing in on me.

17 And this job. I have never taken a  
18 job at UPS where I couldn't handle it.

19 Q. So what was her false allegation to  
20 the police?

21 A. She said that he checked himself out  
22 of the hospital.

23 Q. Was this when you were in the  
24 Veterans Administration Hospital?

25 A. Prior to that.



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1  
2 Q. Why were you in the hospital prior  
3 to that?

4 A. I had an arrhythmia that scared me.

5 Q. When was that?

6 A. March '07 --

7 Q. How long were you in the hospital?

8 A. -- and May.

9 I was there a day. Not even  
10 overnight.

11 Q. And it also mentions in the document  
12 that you have been investigated for child  
13 abuse.

14 A. Right.

15 Q. What were the circumstances  
16 surrounding that?

17 A. Totally false.

18 Q. Who pressed those charges?

19 A. She did. She got an order of  
20 protection. She had -- it was almost like she  
21 took it out of the textbook of things to do  
22 when you want a divorce. Child abuse, order  
23 of protection, removal by the police.

24 The police took me to the hospital.  
25 They didn't take me to the police station,



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2 they took me to the hospital.

3 Q. You mention problems with your  
4 nephew.

5 What was going on with him?

6 A. My nephew, he's probably going to  
7 die soon. He should have been dead already.  
8 He has a web in the side of his heart as well  
9 as having this disease that took his father's  
10 life at 43 years old.

11 Q. And that caused you great stress?

12 A. Yeah, it does.

13 Q. And then you mention your mother,  
14 was she ill?

15 A. Yeah. She's dead now.

16 Q. What was wrong with her?

17 A. Heart failure.

18 And upon informing my district,  
19 division manager of the details of this, UPS  
20 responded forthwith with no response, as  
21 expected.

22 Q. I'm sorry, can you repeat that?

23 A. It's customary that UPS send out  
24 emails. It's customary that UPS sent flowers.  
25 UPS did nothing. Further and to make me

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A. Yes.

Q. When is the first time you made a request for accommodation?

A. 2005.

MS. GRAZIOSO: Can you mark this.

(Defendant's Exhibit I, Accommodation Request, marked for identification, as of this date.)

Q. I'm going to show you what's been marked as Exhibit I. If you could just take a look at that.

A. OK.

Q. Do you recognize the paperwork?

A. Yes, ma'am.

Q. It says this request is a request for accommodation you made in September of 2005.

A. Yes.

Q. What accommodation were you seeking?

A. To meet the restrictions of my doctors.

Q. Which were what?

A. Not to lift packages in excess of 30 pounds.



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A. Yes.

Q. And it says, "On August 23 we received notification that you requested a job related accommodation."

Is that not accurate?

A. That's accurate.

Q. So whom did you request a job-related accommodation from?

A. I would think that it was James Kirk, who I reported to.

Q. Do you recall what precipitated your request for an accommodation?

A. The fact that I couldn't get a DOT card and ride the on-car job in its entirety.

Q. What accommodation were you seeking with this request?

A. I would have stayed as an on-car supervisor and stayed within my restriction limits successfully, just because of my relationship with the rank and file, teamsters and their leadership.

Q. Do you recall what your doctor certified to be your medical restrictions at this time?



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A. Yes.

Q. What were they?

A. They're right here. Not able to lift more than 30 pounds. Should avoid extremes of exertion. Light duties.

Q. Did you ever meet with anyone in HR to discuss this accommodation request?

A. Franco, the only one.

Actually upon being -- this came after my transfer to the CHSP, which was my accommodation, so, so I was told. I was told by Kevin, you got a job that's going to be in line with your restrictions. This is going to be a good job for you. You have a lot of experience, well-liked, and people will respond well, and you'll be successful in it.

Q. Did you feel that that was an accommodation in response to your request, that position?

A. Yes. And then this came weeks afterwards.

Q. So the documentation kind of postdated the actual discussion?

A. Right.



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1  
2 Q. So what was your understanding of  
3 the resolution of your September 2005 request  
4 for accommodation?

5 A. That I was accommodated.

6 Q. That it was granted?

7 A. Yes.

8 Q. Did you, in fact -- were you, in  
9 fact, transferred to a CHSP position?

10 A. Yes.

11 Q. Did that position meet your medical  
12 restrictions?

13 A. Yes, but it did not stand on its  
14 own.

15 Q. What does that mean?

16 A. This, this accommodation did not  
17 follow the proper channels in its entirety,  
18 and, therefore, the attention it required did  
19 not get, which led to the subsequent  
20 violations of my request. As proof of the  
21 document needing signatures in 17 boxes, and  
22 yet it only received two. So the level of,  
23 the level of involvement of human resources  
24 was, once again, superficial from the  
25 beginning of the ADA process.



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through D0572, marked for  
identification, as of this date.)

Q. I'm going to show you what's been  
marked as Exhibit J for identification. If  
you could take a look at it.

A. Yes.

Q. What is this document?

A. It's a subsequent accommodation  
request precipitated by my blackout,  
facilitated by being moved out of the job  
which originally provided me restrictions.

Q. What accommodation were you seeking?

A. So if I identified condition  
hypertropic cardiomyopathy, sleep apnea,  
restless leg syndrome. Current limitations,  
the HCM. No lifting of over 40-pound package.  
Not to include --

MS. SINHA: Speak up.

A. (Continuing) No lifting over  
40-pound packages and not to include  
repetitious lifting. Sleep apnea. Sleep  
study at St. Luke's. Restless leg syndrome.

Q. The question was, what accommodation  
were you seeking?



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A. Relief from excess hours. Relief from lifting.

Q. Who did you request this accommodation from?

A. Mike Ridolfi.

Well, I didn't request it. He requested it.

Q. He gave you the ADA paperwork?

A. He said, you have to fill out another one.

Q. Which physician of yours filled out this document?

It looks like there might be a signature on page 5.

A. Mark Sherrid.

Q. Did you visit with Dr. Sherrid, in response to this request, before he filled out the form?

A. No.

Q. Did you have a conversation with Mr. Sherrid?

A. No.

Q. Did you suggest to Mr. Sherrid what your restrictions should be?



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2 A. No. He already knew what they were,  
3 because he had communicated numerous times.

4 Q. Did you have any meeting with anyone  
5 at HR, a checklist meeting to discuss your  
6 request for accommodation?

7 A. I believe after this was filled out,  
8 then we had a checklist meeting.

9 Q. Who was at the meeting?

10 A. The original meeting was Wendy  
11 Marshall and Mike Ridolfi, and I don't believe  
12 that Wendy was there for the second one.

13 Q. There was two separate meetings?

14 A. There's -- the checklist meeting was  
15 after that.

16 Q. After what?

17 A. After the initial filling out of the  
18 ADA.

19 Q. So you met with someone at HR when  
20 you filled out the forms?

21 A. Yes.

22 Q. And that was Wendy Marshall?

23 A. Wendy Marshall and Mike Ridolfi.

24 Q. And then later there was a checklist  
25 meeting?



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2 A. Yes.

3 Q. Who attended that?

4 A. I know Mike Ridolfi was involved in  
5 the checklist. It might not have been Wendy  
6 Marshall on a second one. It might have been  
7 Irene Gordon, I'm not sure.

8 I've filled out numerous of these.

9 Q. What do you recall having been  
10 discussed during the checklist meeting?

11 A. I don't really recall anything. I'm  
12 sorry.

13 Q. Do you recall mentioning at all that  
14 your sleep apnea had been resolved, at any  
15 point during the meeting?

16 A. Yes. I believe it had, because I  
17 had the sleep study, and they adjusted the  
18 airway pressure, and it seemed to be resolved.

19 Q. Do you recall mentioning anything  
20 about your restless leg syndrome and the  
21 status of that impairment?

22 A. Restless leg is -- speaks just  
23 solely to the fact that when I take the  
24 Mirapex, I don't have restless legs.

25 Q. Do you recall if you mentioned that



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at all during the checklist meeting?

A. Perhaps.

Q. What do you recall as the resolution of this request for accommodation?

A. I remained working in the capacity of doing the safety training of drivers.

Q. When you say you "remained," when did you start doing that?

A. About July.

Q. Of 2007?

A. Yes.

Q. Before or after you requested the accommodation?

A. After.

Q. So were you placed back into a health and safety training role --

A. Right.

Q. -- in response to your --

A. It wasn't CHSP, where I would be doing the compliance end of it, but actually the on-road annual certification of drivers. Following up on some accidents, going out with drivers that had accidents and injuries.

Q. Were you transferred to that



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2 position as a result of your request for  
3 accommodation?

4 A. Either that, or it was a temporary  
5 thing until something else was made available.

6 Q. Did that position meet your medical  
7 restrictions?

8 A. Yes.

9 Q. Did you file any other requests for  
10 accommodation with UPS?

11 A. No, I don't believe I did.  
12 I know that they're requesting one  
13 now, that I fill out another one.

14 Q. When was that?

15 A. I've just been made aware of it  
16 through Rashmee.

17 Q. So was that this year?

18 A. Yes.

19 (Continued on the following page.)  
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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

JOHN WELCH,

Plaintiff(s),

vs.

09-CV-04400(ADS)(WDW)

UNITED PARCEL SERVICE, INC.,  
d/b/a UPS,

Defendant(s).

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**DEPOSITION OF**

**JOHN K. WELCH**

**VOLUME II**

January 11, 2011

10:05 a.m.

Seven Times Square  
New York, New York

Steven Neil Cohen, RPR



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your ability to testify truthfully?

A. No.

Q. Prior to when we started the deposition on the first day I gave you a set of instructions about answering orally and using verbal words rather than any gestures that the court reporter can't pick up.

Do you have any questions about those instructions or do you remember them?

A. I remember them.

Q. Now, when we left off last time we had been talking about in 2007 you had made a request for accommodation with UPS and had been put into a position doing safety training for drivers?

A. Yes.

Q. Do you recall how long you were in that position?

A. Six months.

Q. Do you recall the span of time that that was?

A. July to December.

Q. Of 2007?

A. Yes.



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Q. What happened in December of 2007?

A. It was approaching the end of the period unbeknown to me that I was told I was -- by human resources manager Mike Ridolfi, I believe health and safety manager at the time, said the clock was ticking and that I had to present documentation to support my ongoing disability.

Q. Do you know what he meant by the clock is ticking?

A. I now know. It was later explained to me.

Q. Who explained it to you?

A. Mike.

Q. And what did he explain that to mean?

A. I was on restrictive duty at the time and that I would now be required to go on long-term disability when that period expired, I believe early January or late December.

Q. During the time that you were on restrictive duty were you receiving any income supplement from Aetna or UPS?



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A. I was receiving my regular paychecks in each period.

Q. Full pay?

A. Yes.

Q. When did these conversations with Mr. Ridolfi occur?

A. December.

Q. 2007?

A. Yes.

Q. Did you go -- did you take any leave of absence from work in January of 2008?

A. Yes.

Q. Do you recall from what time to what time?

A. January, I believe it was the early period, early portion of the month to around the 22nd.

Q. What was the reason for that leave of absence?

A. Well, initially I had -- the ADA request was specific to what we have already spoken about but this was something that was unrelated. The device that I have in my



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Defendant's Exhibit N.

(Request for accommodation of  
January 2010 was marked Defendant's Exhibit  
N for identification)

BY MS. GRAZIOSO:

Q. I will show you what has been  
marked as DN. You can take a minute to look  
it over. It might just refresh your  
recollection as to when you requested the  
accommodation.

Looking at that do you recall when  
you may have requested an accommodation in  
2010?

A. It says January.

Q. Okay. Do you recall who you  
requested an accommodation to?

A. No.

Q. Okay. What job were you working  
in at that time for UPS?

A. Safety.

Q. CHSP?

A. CHSP.

Q. Who were you reporting to?

A. 2010 -- let me back that statement



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off. I was package inside supervisor but doing safety training.

Q. Who were you reporting to?

A. Steve Wiederhold.

Q. And did that job meet your medical restrictions?

A. When they allowed it barring bringing out packages, being taken from that job to go to other places to work like Brooklyn during the holidays and Maspeth during the holidays.

Q. When were you taken from that job to work on other jobs?

A. Routinely. Just to bring out packages.

Q. On a one-day basis, on an assignment basis?

A. Yes. Just when problems arise.

Q. Do you know how frequently that occurred?

A. At some points, everyday.

Q. Can you give me any examples of times you were asked to go work somewhere else?



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1  
2 A. While assigned to the centers  
3 doing safety they had operational  
4 difficulties and they told me to not do  
5 safety and to handle those situations.

6 Q. What situations?

7 A. Packages not dispatched, packages  
8 on wrong vehicles, go to Brooklyn and work  
9 for Rosh Hashanah, Yom Kippur.

10 Q. Who would tell you to do these  
11 things?

12 A. Steve. Well, in general it would  
13 be centers, it would be the center manager  
14 and when I had to leave the building it  
15 would be Steve that would tell me to go  
16 there, Steve Wiederhold.

17 Q. Let's take them one at a time.

18 At the time you were in the center  
19 there to do safety and there was an  
20 operational problem can you give me an  
21 example of a center manager who asked you to  
22 assist in the operational problem?

23 A. Victor Martini, Michael Krause.

24 Q. Anyone else?

25 A. David Mazzola, Roberto Charles.

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The center managers you talked about who had sent you from the center to go do operational work within the building, on any of those occasions when any one of those individuals you listed, five individuals, when they asked you to do that did you tell any of them that you couldn't?

A. I followed their instructions.

Q. Did you notify any of them about your medical restrictions?

A. They all know.

Q. How do you know they know?

A. Because they know I can't drive a commercial vehicle which is why they tell me to go get my car.

Q. Do they know -- is that the only medical restriction they are aware of?

A. I don't know. You might have to ask them.

Q. Did you ever tell any of those managers that you can't lift packages in excess of 30 or 40 pounds?

A. Yes.

Q. Who did you tell?



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Welch

A. Dave Mazzola.

Q. Do you recall what Mr. Mazzola's response was?

A. He said, "If you can't do it don't take it."

Q. So did you do the assignment anyway?

A. Those that I could take, yes. Or they would say have the driver remove it from the vehicle.

Q. Do you recall who specifically said that?

A. Billy Kyles which I didn't mention earlier.

Q. Kyles?

A. K-Y-L-E-S.

Q. Is Mr. Kyles -- did you tell Mr. Kyles about your medical restrictions?

A. Yes.

Q. He instructed you to have the driver lift any packages that were outside of those restrictions?

A. Right.

Q. Did you do that?



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1  
2 A. Yes.

3 Q. Any of these managers, now six  
4 that you mentioned, who you told about your  
5 restrictions who didn't give you some sort  
6 of suggestion?

7 A. Most of them don't say anything.  
8 They just say take these, bring them out to  
9 the driver.

10 Q. So which of the six managers do  
11 you specifically recall telling in light of  
12 an assignment that you couldn't do it or  
13 that it was beyond your medical  
14 restrictions? You mentioned Dave Mazzola.

15 A. Mike Krause, Roberto Charles. The  
16 division manager told me -- that told me I  
17 am here to work is Joe Reimo, R-E-I-M-O.

18 Q. What did Mr. Charles say when you  
19 told him that the assignment he gave you was  
20 outside of his medical restrictions?

21 A. He said nothing, do it.

22 Q. Okay. And what about Mr. Krause?

23 A. Do it.

24 Q. Okay. So only Mr. Mazzola and  
25 Mr. Kyles made other suggestions?



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Q. Was Mr. Charles available for you to speak to during these times?

A. No.

Q. So after peak what position did you return to?

A. Industrial engineering, PAS, preload assist.

Q. Is that the position you are still currently in?

A. Yes.

Q. Okay. Going back to your 2010 accommodation we looked at that letter which looks to say you submitted your request in January of 2010?

A. Yes.

Q. Do you recall when you submitted the documentation that UPS asked for in order to evaluate your accommodation?

A. No.

MS. GRAZIOSO: Mark this O.

(Documentation from Dr. Mark Sherrid of March 11, 2010 was marked Defendant's Exhibit O for identification)



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Welch

BY MS. GRAZIOSO:

Q. I will show you what has been marked as Exhibit O. If you want to take a minute and look through it.

A. Okay.

Q. Do you recognize this document?

A. Yes.

Q. What is this document?

A. It is a supporting documentation from Dr. Mark Sherrid.

Q. Okay. And according to the documents Dr. Sherrid provided what are your medical restrictions?

A. No lifting more than 20 pounds. Should not operate heavy machinery. Should not drive heavy trucks as he has cardiac defibrilator pacemaker. He has hypertrophic cardiomyopathy also known as HCM, sleep apnea, restless leg syndrome, has internal cardiac defibrilator and pacemaker, reached diagnosis or condition identified in question 3 above, describe in detail the degree or extent of the job restrictions and state the known or expected duration of the



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Welch

job restrictions. HCM cannot do extremes of exertion, lifting which would raise blood pressure and put more stress on the heart. Also lifting weights can -- this is the doctor that wrote this.

Q. Yes. You don't need to read the whole thing. I am just trying to get a sense of the restrictions which maybe is in Section B or the first question answered, question 2?

A. No lifting more than 20 pounds. Should not operate heavy machinery. Should not drive heavy trucks as he has an implanted, internal cardiac defibrillator and pacemaker.

Q. It looks like Dr. Sherrid signed this on March 11, 2010?

A. Yes.

Q. So from getting the paperwork in January to Dr. Sherrid filling this out in March did you visit Dr. Sherrid at all?

A. No.

Q. Did he examine you?

A. No.



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Q. Did you have any communication with Dr. Sherrid during that three-month period?

A. No.

Q. Send him any letters?

A. No.

Q. Any phone calls?

A. Not to the best of my knowledge.

Q. If you would look at document marked D01032, it has job functions and some handwriting on it.

A. Okay.

Q. This looks to be a listing of job responsibilities for the operation supervisor manager position?

A. Right.

Q. Whose handwriting is on the document?

A. Mine.

Q. Your handwriting. What was the purpose of your handwriting?

A. Just to validate what I can and can't do based on the essential functions listed here.



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1 Welch

2 Q. What did you base that  
3 determination on?

4 A. My belief and understanding of my  
5 restrictions.

6 Q. Based upon what?

7 A. Doctors' notes.

8 Q. Did you send a copy of this to  
9 Dr. Sherrid with the paperwork to be filled  
10 out?

11 A. No.

12 Q. Did Dr. Sherrid ever see this  
13 document?

14 A. No.

15 Q. So where you write, "Nine-hour  
16 restriction no overnight shifts," that is  
17 your handwriting?

18 A. Yes.

19 Q. Not Dr. Sherrid's handwriting?

20 A. Right. That is mine.

21 Q. Up top, "John Welch, package  
22 inside supervisor" and a number, that is  
23 your handwriting?

24 A. Yes.

25 Q. Did you ever discuss this list of



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job functions with Dr. Sherrid?

A. No.

Q. After you submitted this documentation do you recall having a meeting with anyone from UPS regarding your accommodation request?

A. No.

Q. Did you ever meet with anyone from human resources to discuss the paperwork you submitted?

A. There have been so many, I just have no recollection of this specific event.

I do remember HR representative, Karen Francis meeting with me.

Q. Do you recall when that was?

A. No. It was I guess subsequent to that.

Q. What did you and Ms. Francis discuss?

A. She was just going over the ADA request. That is what she said she wanted to do, go over the ADA request.

Q. Okay. What did you discuss with her?



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Welch

A. Things I can and can't do, self -- she said it was a self-perceived disability. I didn't understand that question.

Q. Did you ask her what that meant?

A. No. I just figured it was jargon that she uses in her field.

Q. Did you discuss the paperwork you had submitted during that meeting?

A. Yes.

Q. Was anyone else present?

A. I think the nurse was there.

Q. Ms. Gordon?

A. Yes.

Q. Do you recall where the meeting took place?

A. It took place in Nassau.

Q. Somebody's office?

A. In the help office.

Q. So Ms. Gordon, Ms. Francis and yourself were the only ones present?

A. Yes.

Q. Did they ask you any type of questions during the meeting?

A. What I believe my restrictions



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Welch

were.

Q. Okay. And what did you tell them?

A. I told them about the restriction of my hours, I said I am told I have a nine-hour restriction.

Q. Who told you you had a nine-hour restriction?

A. Irene.

Q. What else did you discuss with them?

A. The lifting and any other jobs that I feel I might be able to do.

Q. They discussed those with you?

A. Yes.

Q. Did they ask you for your input?

A. Yes.

Q. What did you tell them?

A. They asked me, can you do this, can you do that, they asked me if I could work in the hub. I said I don't see why not.

Q. Do you remember what other ideas they asked you?

A. I threw out there to IE,



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1 Welch  
2 industrial engineering.

3 Q. What other jobs did you discuss  
4 during that meeting, hub, IE, anything else?

5 A. I don't believe any others.

6 Q. How did that meeting conclude?

7 A. They said they would -- they said  
8 it was just a matter of protocol. They had  
9 to fill it out and send it on its way for  
10 approval.

11 Q. Did you ever have any further  
12 conversations with anyone from human  
13 resources?

14 A. No. I saw Irene from time to  
15 time, just asked how I was doing.

16 Q. Did you get any further  
17 communications about your request for  
18 accommodation?

19 A. No.

20 Q. Did you ever have any  
21 conversations with Bev Riddick about your  
22 request for accommodation?

23 A. Yes. I didn't know if it was a  
24 request or if in fact she was telling me  
25 that in response to my request for



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Welch

accommodation but she said that she called me up and left a message on my phone. She said --

Q. When was this?

A. The summer of 2010 probably.

She told me that just want to discuss with you a few jobs or opportunities for you and she offered me, when I called her she said we could -- the only thing we have for you is administrative, not stock, not an MIP job and the only thing available would be the PAS in Manhattan.

Q. Okay.

A. So I said I would do that. She said I will let you think about it. I said I don't have to think about it. I just can't go backwards. I will stay, take what you have to offer in the same capacity. So she said I will get back to you and she called me back afterward and said, okay, you are going to be going to Manhattan south.

Q. What is the -- this is in PAS?

A. Yes.

Q. What is the PAS position?



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1 Welch

2 A. PAS is IE function. It is the  
3 implementation of a new technology on  
4 preload and also on road, it basically makes  
5 a package smart. It improves our system and  
6 it requires a lot of data input and requires  
7 a lot of studying of routes and reorganizing  
8 routes, talking with drivers and it is a  
9 pretty lengthy process but in the end it is  
10 something beneficial to the company.

11 Q. What is your job title?

12 A. PAS supervisor.

13 Q. What are your actual job duties?

14 A. Right now I am assigned to --  
15 there is so much that we do and I am new at  
16 it. I sit with supervisors and discuss  
17 routes that are presently running, what they  
18 are going to be running in the future. I  
19 will then map out the new routes.

20 I will research the address  
21 ranges, will go into our system and break  
22 down those address ranges, assign pickups,  
23 basically building a loop system. A loop  
24 system is when we -- it is almost as if the  
25 whole route, the whole center is one



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continuous route that feeds into each other.  
It is a little technical to explain and  
probably not really of any value here.

Q. So you began in that position  
around September 2010?

A. Yes.

Q. You are still in that position  
now?

A. Yes.

Q. Who do you report to?

A. Frank Torres.

Q. Does that job meet your medical  
restrictions?

A. Yes.

MS. GRAZIOSO: I will mark this as

P.

(Letter from Ms. Riddick was  
marked Defendant's Exhibit P for  
identification)

BY MS. GRAZIOSO:

Q. I will show you what has been  
marked as P.

Do you want to take a second and  
look that over?



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Welch

A. Okay.

Q. Do you recognize that document?

A. Yes.

Q. What is that document?

A. It is confirming that they would move me to that job.

Q. Does Ms. Riddick make any mention here for a request for accommodation?

A. Yes.

Q. What does she say?

A. Let me read it before I say it out load.

Q. You can paraphrase. You don't have to read it.

A. This letter is just confirming the telephone conversation in which I had made a request for a job-related accommodation but it says here it is not to be construed as an admission that the company is obligated contractually legally or otherwise to provide you with a job-related accommodation.

Q. Was it your understanding that Ms. Riddick offered you this position in



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reference to the letter in response to your request for an accommodation?

A. Yes.

Q. You accepted this new position?

A. Yes.

Q. This new position met your medical restrictions?

A. Yes.

Q. So did you feel upon accepting your new position that your 2010 request for accommodation had been granted?

A. Yes. Maybe it is a culmination of all of them and finally being able to say let's put this to bed after a few years of not being able to get it done.

MS. GRAZIOSO: This is probably a good time for a five-minute break.

(Recess)

BY MS. GRAZIOSO:

Q. Mr. Welch, we are going to talk a little bit now about some of the allegations that you have in your complaint.

A. Yes.

MS. GRAZIOSO: Would you mark this



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1 Welch

2 Do you know which managers you  
3 e-mailed?

4 A. Maybe Kevin might have been.

5 Q. DiLibero?

6 A. Yes. Ridolfi. If any others it  
7 would have been Doug Trandiak,  
8 T-R-A-N-D-I-A-K.

9 Q. Do you recall if you got a  
10 response from any of the individuals you  
11 e-mailed?

12 A. I believe I got a response but the  
13 response was something I didn't expect. It  
14 was an overall response of everything, you  
15 know, all my complaints and claims.

16 Q. Did the response specifically  
17 address your tuition reimbursement issue?

18 A. Yes. But not to my understanding.  
19 There are rules for things such as being out  
20 of work but -- which I totally agree but  
21 when someone doesn't ask to be out of work  
22 or when someone is forced out of work they  
23 can't stay in work and therefore be active  
24 to receive tuition reimbursement which was  
25 my complaint.



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Q. So was their response then that your tuition reimbursement was denied because you were inactive during that time period?

A. Yes.

Q. Do you recall what the response was to any of your other complaints? I think you stated it covered a couple of areas.

A. Yes. Most of them were just I complained about discrimination, retaliation, specific incidences and every one of them was investigated and found to be untrue.

Q. Do you know who investigated them?

A. I believe Doug Trandiak.

Q. So you made an internal complaint of discrimination based upon some conduct that had happened and do you remember what specifically your complaints were?

A. To start off with being told by the division manager, I don't have a job for someone like you, your disease is causing me a problem.



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Welch

what you are taking, I am understanding you have a lack of intensity and then as soon as the word intensity came out, that was I was told and then it was my -- it was rather Tom's words that had mentioned earlier that it was my lack of intensity.

Q. When about was this, year-wise?

A. 2007 -- no. Let me back it up. 2000.

Q. 2000. Any other complaint that you made to Kevin at that time?

A. I think I complained about the ADA process being interactive and me not being able to navigate it and being told I am always doing something wrong and bottom line is when I am asked to do something I shouldn't have to protect myself but rather the company protect me by making sure there is a red flag that happens when they say for me to do something.

Q. Any other complaints?

A. No.

Q. So these complaints you made to Kevin and they were investigated by Doug



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Welch

Trandiak?

A. Yes.

Q. The result of Doug's investigation was that he found them to be untrue, I think is the word you used?

A. Right. Either untrue or not accepting responsibility for having done anything wrong.

Q. How did you learn the outcome of Mr. Trandiak's investigation?

A. In a meeting.

Q. Who was in this meeting?

A. Kevin DiLibero, Steve Wiederhold, Joe Mero, M-E-R-O, Doug Trandiak, myself.

Q. Okay. Do you recall when the meeting was?

A. 2009 January.

Q. Do you know where the meeting took place?

A. In Nassau, division manager's office, Steve Wiederhold's office.

Q. What was discussed during the meeting?

A. I didn't even know there was going



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Welch

to be a meeting. This happened like 6:00, 5:30 in the morning, preload was running and I walked in and there was papers all about. Every document was, I had not done my job or I had done something wrong and that these allegations were incorrect and we have bent over backwards for you. It was just very uncomfortable. The employee relations manager was.

Q. Is that Mr. Trandiak?

A. Yes. He -- obviously that job is designed not for employee relations but just to protect the organization because he never even told me there was a meeting.

Q. How did you know to report to the division manager's office that morning?

A. Joe Mero came and got me.

Q. So during that meeting did they let you know that they had investigated your complaints?

A. Yes.

Q. Did someone at the meeting go through kind of each of your complaints and what they had found?



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Welch

A. Yes.

Q. Do you recall who kind of went through the complaints in the meeting?

A. I think Kevin did along with Doug interjecting.

Q. Did you contribute anything to the meeting?

A. Yes.

Q. Do you recall any substance of what you had said during the meeting?

A. I felt it to be an attack. There was no customary conversation. It was people standing up and getting red in their face.

Q. Who was standing up?

A. Kevin.

Q. Was everyone else sitting?

A. Yes.

Q. Was there a chair for Kevin?

A. Yes.

Q. So what conversation did you add to the meeting?

A. I said this is a joke. I said do you have anything left for me. Do you have



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Welch

anything else to say here but to bother me and attack me because I am done. I wanted to leave. All I wanted to do was get out.

Q. Did the meeting make you angry?

A. Made me defensive.

Q. Do you recall what the demeanor was of the other participants in the meeting?

A. They were fine.

Q. How did the meeting conclude?

A. I just left. They concluded it. I said I just -- really all I want is to be able to function and be left alone.

Q. Going back to your complaint, paragraph 62, which states, "On or after late January 2009 DiLibero gathered his staff in defendant's conference room and summoned Welch at approximately 5:00 a.m. to interrogate him about his complaints regarding discrimination."

A. Yes.

Q. Where you say "his staff" you are referring to Mr. Mero, Mr. Wiederhold, Mr. Trandiak?



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